

## **REMARKS**

### **Summary of the Bases for Rejection and Objection**

Claims 1 and 3-13 are currently rejected under 35 U.S.C. 112, first paragraph for allegedly failing to comply with the written description requirement.

Claims 56 and 57 currently stand rejected under 35 U.S.C. 112, second paragraph for allegedly failing to particularly point out and distinctly claim the subject matter which applicants regard as their invention.

Claims 1, 3-11, 13, 24-30 and 38-60 currently stand rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over U.S. Patent No. 5,208,096 (the "Dohrer patent") in light of U.S. Patent No. 5,399,426 (the "Koch patent").

Claims 31-36 are currently objected to as being dependent upon a rejected base claim.

### **I. Status of the Specification**

During the Examiner Interview on February 16, 2006, the Examiner raised a new matter rejection with respect to references to Huntsman products referenced in Examples 1 and 3-9 of the substitute specification filed on May 6, 2004. Paragraph 0040 of Example 1 and paragraph 0044 of Example 3-9 have been amended above to remove the references to Huntsman products. Applicants note that the formulation used as Example 1 did contain a Huntsman product as layer E. The original application, however, inadvertently omitted an appropriate explanation that layer E was made from a Huntsman product rather than a Dow product. The substitute specification filed May 6, 2004 attempted to correct that omission. In light of the new matter rejection raised by the Examiner, however, Applicants have now amended Example 1 to state simply that the components used in making the example films are commercially available. The amendments to Examples 1 and 3-9 remove reference to Huntsman, but avoid a misrepresentation that layer E of Example 1 was made with a Dow product.

Also during the Examiner Interview on February 16, 2006, the Examiner noted an extraneous "p" in the fifth sentence of paragraph 0032, and requested that it be removed.

The amendment to paragraph 0032 above removes the inadvertently included extraneous "p."

Applicants respectfully request entry of the amendments to the specification submitted herein.

## **II. Status of the Claims**

Claims 1, 3-13, 24-36 and 38-60 are currently rejected. In light of the discussion during the Examiner interview regarding the allowability of claims 12 and 31-36, Applicants have canceled without prejudice claims 1, 3-11, 13, 25 and 38-60 for the purposes of filing a continuing case addressing these particular claims. As a result, Applicants reserve the right to file the canceled claims in a continuation or continuation-in-part application claiming priority to the present application.

Claim 12 has been amended to incorporate the elements previously contained in claim 1, and additionally including an amendment reciting that the non-cling layer comprises a copolymer of propylene and ethylene wherein said copolymer has an ethylene content of about 1% by weight to about 10% by weight, as discussed with the Examiner during the Interview on February 15, 2006. Applicants respectfully submit that claim 12 is now in a condition for allowance.

Claims 31-36 were objected to as being dependent upon a rejected base claim, but the December 21, 2005 Office Action indicated that they would be allowable if rewritten in independent form. (December 21, 2005 Office Action at p. 4). Accordingly, claim 31 has been rewritten in independent form to include all of the limitations of base claim 24. Claims 32-36 depend from claim 31. Applicants respectfully submit that claims 31-36 are now in a condition for allowance.

Claim 24 has been amended to recite that the "at least one first layer" comprises "a heterogeneously branched ultra low density polyethylene and from about 15% by weight to about 40% by weight of a plastomer." This amendment is supported in the specification at, for example, paragraph 0024, and is additionally supported by originally submitted claim 25. As amended, claims 26-30 depend from amended claim 24. The cited references to Dohrer and Koch do not disclose plastomer. Applicants respectfully

submit that the current rejection of claims 24 and 26-30 under 35 U.S.C. 103(a) should be withdrawn. Applicants respectfully submit that claims 24 and 26-30 are now in a condition for allowance.

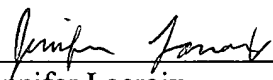
### CONCLUSION

Claims 1, 3-13, 24-36 and 38-60 are currently rejected. Applicants have canceled claims 1, 3-11, 13, 25 and 38-60 without prejudice. Claims 12, 24, 26 and 29-31 have been amended. For all of the reasons stated herein, it is respectfully submitted that the claims as amended are patentable over the cited art and it is believed that the claims are in condition for allowance as noted herein. Allowance of currently presented claims 12, 24, 26-30 and 31-36 is respectfully requested.

The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

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Respectfully submitted,

  
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**Summary of Examiner Interview/Record**

An interview was conducted between one Attorney of Record, Troy Groetken, and Examiner Nakarani on February 15, 2006. The rejection of claim 1 under 35 U.S.C. § 112, first paragraph was discussed. Examiner Nakarani expressed agreement that amending the claim language of claim 1 to read “from about 1% by weight to about 10% by weight” would be acceptable and overcome the remaining 112, first paragraph rejection of that particular claim. It was agreed that claim 12 would be allowable if rewritten in independent form to incorporate the elements of claim 1, including the amendment discussed.

The Examiner further agreed that claims 31 through 36 were allowable if rewritten in independent form as noted in the December 21, 2005 Office Action. The rejection of claims 56 and 57 under 35 U.S.C. 112 was also discussed, though no agreement was reached with respect to potential claim amendments. Further, Examiner Nakarani indicated that support for certain claim amendments could also be envisioned by supplying component specification information.

Lastly, Examiner Nakarani indicated that various grammatical and typographical errors were noted in the specification of the instant application and requested amendments to correct. Attorney Groetken indicated that such corrections would be addressed in this Office Action Response After Final.